

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Michael A. Apicella et al.

Title: NON-TOXIC MUTANTS OF PATHOGENIC GRAM-NEGATIVE BACTERIA

Docket No.: 875.001US2

Serial No.: 09/077,572

Filed: October 13, 1998

Due Date: October 17, 2001

Examiner: S. Devi

Group Art Unit: 1645

**BOX AF**


Commissioner for Patents  
Washington, D.C. 20231

We are transmitting herewith the following attached items (as indicated with an "X"):

- ☒ A return postcard.
- ☒ Appellants' Brief on Appeal (5 pgs), with Appendices I-IV (all in triplicate), with authorization to charge filing fee and oral hearing fee to Deposit Account No. 19-0743.
- ☒ Amendment & Response Under 3 CFR 1.116, including Clean Version of Substitute Paragraph of Specification and Clean Version of Pending Claims (10 pgs) (in triplicate).
- ☒ Request for Refund (2 pgs).

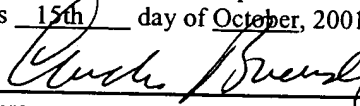
Please consider this a **PETITION FOR EXTENSION OF TIME** for sufficient number of months to enter these papers and please charge any additional required fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938, Minneapolis, MN 55402 (612-373-6900)

By:   
Atty: Ann S. Viksnins  
Reg. No. 37,748

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: BOX AF, Commissioner for Patents, Washington, D.C. 20231, on this 15th day of October, 2001.

Name Candis B. Buending

Signature 

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S/N 09/077,572

PATENT

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Applicant: Michael A. Apicella et al.

Examiner: S. Devi

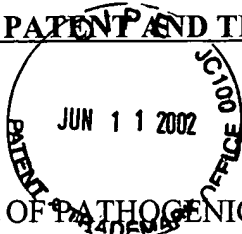
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REQUEST FOR REFUND

Commissioner for Patents  
Washington, D.C. 20231

Applicants hereby request a refund of all fees required to be paid in connection with the Notice of Appeal filed August 17, 2001 and the Appeal Brief mailed herewith, in particular:

1. Notice of Appeal fee of \$310.00 (see attached return postcard),
2. Appeal Brief filing fee of \$320.00;
3. Request for Oral Argument fee of \$280.00; and

A final Office Action was issued in this case on February 21, 2001, and Applicants filed their response on March 16, 2001, **within two months of the date of the final Office Action** (return postcard attached). As of August 17, 2001, just prior to the six-month date, Applicants had received neither an Advisory Action nor a Notice of Allowance, in spite of many telephone inquiries to the Examiner, her SPE, and other customer service representatives. This file has now been reported as lost.

Because of the Office's failure to take proper and timely action following receipt of Applicants' Amendment and Response to the final Office Action, Applicants were obliged to file a Notice of Appeal in order to keep this application pending. As of this date, the file is still reported to be lost, and Applicants have filed their Appeal Brief to keep from incurring further extension fees in the case.

It is believed that Applicants are entitled to a refund of all fees incurred by them after their Amendment and Response to Final Office Action was mailed on March 16, 2001, as listed above, and it is respectfully requested that a refund of said fees in the total amount of **\$910.00** be credited to Deposit Account 19-0743.

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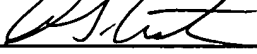
Please direct this communication to the Refund Section, Accounting Division, Office of Finance.

Respectfully submitted,

MICHAEL A. APICELLA ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
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(612) 373-6961

Date 15 October 2001 By   
Ann S. Viksnins  
Reg. No. 37,748

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 15th day of October, 2001.

Candis B. Buending  
Name

  
Signature



In re Patent Application of: Michael A. Apicella et al.

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Serial No.: 09/077,572

Filing Date: October 13, 1998

**Receipt is hereby acknowledged for the following in the United States Patent and Trademark Office:**

**CONTENTS:** Notice of Appeal (1 Page); check for fee of \$310.00; a Return Postcard and TRANSMITTAL SHEET.

Mailed: August 17, 2001  
ASV/cbb

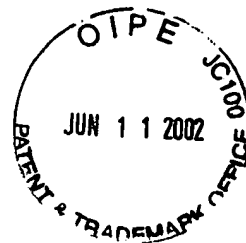
Docket No.: 875.001US2  
Due Date: August 21, 2001



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Serial No.: 09/077,572 Filing Date: October 13, 1998

Receipt is hereby acknowledged for the following in the United States Patent and Trademark Office:

CONTENTS: An Amendment and Response Under 37 C.F.R. 1116 (10 Pages); a Copy of *Ex parte Parks*; a Return Postcard and TRANSMITTAL SHEET.

Mailed: March 16, 2001  
ASV/cbb

Docket No.: 875.001US2  
Due Date: April 21, 2001

